

# State of Missouri

## Office of Secretary of State

Case No. AP-10-15

IN THE MATTER OF:

EDWARD D. JONES & CO., L.P.,  
CRD No. 250,

Respondent.

Serve: Edward D. Jones & Co., L.P. at:  
12555 Manchester Road  
St. Louis, Missouri 63131

### **CONSENT ORDER**

#### **SUMMARY OF ENFORCEMENT SECTION'S ALLEGATIONS**

1. The Enforcement Section of the Missouri Securities Division ("Enforcement Section") has alleged that Respondent Edward Jones failed to reasonably supervise a Missouri-registered agent in connection with the unsuitable sale of a variable annuity to a Missouri resident, which constitutes grounds to discipline Respondent pursuant to Section 409, RSMo. (Cum. Supp. 2009).
2. The term "Respondent" in this document refers to Edward Jones.
3. Respondent and the Enforcement Section desire to settle the allegations and the matters raised by the Enforcement Section relating to Respondent Edward Jones's alleged failure to reasonably supervise activities of one of Respondent's agents.

#### **CONSENT TO JURISDICTION**

4. Respondent, solely for the purposes of resolving this proceeding, and the Enforcement Section stipulate and agree that the Commissioner has jurisdiction over Respondents and these matters pursuant to the Missouri Securities Act of 2003, Chapter 409, et seq.
5. Respondent and the Enforcement Section stipulate and agree that the Commissioner has authority to enter this Order pursuant to Section 409.6-604(h), RSMo. (Cum. Supp. 2009), which provides:

"The commissioner is authorized to issue administrative consent orders in the settlement of any proceeding in the public interest under this act."

#### **WAIVER AND EXCEPTION**

6. Respondent waives its rights to a hearing with respect to this matter.

7. Respondent waives any rights that it may have to seek judicial review or otherwise challenge or contest the terms and conditions of this Order. Respondent specifically forever releases and holds harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner of Securities and their respective representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter.
8. Respondent stipulates and agrees with the Enforcement Section that, should the facts contained herein prove to be false or incomplete, the Enforcement Section reserves the right to pursue any and all legal or administrative remedies at its disposal.

#### CONSENT TO COMMISSIONER'S ORDER

9. Respondent and the Enforcement Section stipulate and agree to the issuance of this Consent Order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.
10. Respondent agrees not to take any action or to make or permit to be made any public statement creating the impression that this Order is without a factual basis. Nothing in this paragraph affects Respondent's (a) testimonial obligations; or (b) rights to take legal or factual position in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities is not a party; or (c) rights to make public statements that are factual.
11. Respondent agrees that Respondent is not the prevailing party in this action since the parties have reached a good faith settlement.
12. Respondent neither admits nor denies the allegations made by the Enforcement Section, but consent to the Commissioner's Findings of Fact, Conclusions of Law, and Order as set forth below solely for the purposes of resolving this proceeding and any proceeding that may be brought to enforce the terms of this Consent Order.

#### COMMISSIONER'S FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

##### I. FINDINGS OF FACT

13. Respondent Edward Jones is a Missouri-registered investment adviser and broker-dealer with a business address of 12555 Manchester Road, St. Louis, Missouri 63131. Edward Jones is registered with the Central Registration Depository ("CRD") and has CRD number 250.
14. On July 17, 2000, a seventy-eight (78) year old resident of Hollister, Missouri ("MR1"), appointed her eldest daughter, a resident of Branson, Missouri ("MR2"), as MR1's power of attorney for financial decisions. MR1 appointed MR2 as power of attorney because MR1 was placed on pain medication and was in and out of hospice and nursing care. MR1 was also uncomfortable making her own financial decisions because she felt the decisions were too complex.
15. In January 2005, MR1 had ninety thousand dollars (\$90,000) to reinvest from a Federal Home Loan Mortgage Corporation mortgage-backed security bond ("Freddie Mac bond") that had been called. MR2, together with another daughter of MR1 from

Eldon, Missouri ("MR3"), met with Respondent's agent to discuss reinvestment options.

16. During their meeting with Respondent's agent, MR2 and MR3 told Respondent's agent that MR1 wanted an investment that would provide a monthly income stream similar to the interest payments MR1 had been receiving from the Freddie Mac bond, while still preserving the principal invested. MR1 wished to retain the principal for future care needs and/or distribution to MR1's heirs after MR1's death. MR1 was not present at this meeting.
17. Respondent's agent presented an Anchor Advisory II Variable Annuity ("Anchor VA") to MR2 and MR3 as his recommendation for reinvesting the ninety thousand dollars (\$90,000). Respondent's agent stated to MR2 and MR3 that the Anchor VA could be structured to provide an income stream for MR1 in an amount similar to the income stream MR1 had been receiving from the Freddie Mac bond, which totaled approximately five hundred fifteen dollars (\$515) per month.
18. In connection with the review of the Anchor VA transaction, Respondent's agent provided certain information to Edward Jones's home office. Assets from the Freddie Mac bond, which were in MR1's brokerage account with Edward Jones, were used to purchase the annuity. The information provided by Respondent's agent indicated among other things, that:
  - a. MRI was expecting to take immediate income from the annuity;
  - b. the annuity was the best fit for MR1 because she needed a guarantee on the principal and the Anchor VA was not a volatile product;
  - c. MR1's net worth was two hundred thousand dollars (\$200,000);
  - d. the principal amount of the Anchor VA represented 45% of the client's stated net worth; and
  - e. MR1 had an annual income of eighteen thousand dollars (\$18,000).
19. On January 20, 2005, an Anchor VA in the amount of ninety thousand dollars (\$90,000) was issued for MR1.
20. After the purchase of the Anchor VA by MR1, Respondent's agent established a systematic monthly withdrawal in the amount of four hundred seventy dollars (\$470) for MR1, and on February 20, 2005, MR1 started receiving her monthly payment from the Anchor VA.
21. After the death of MR1 on April 22, 2009, the three beneficiaries of the Anchor VA submitted death claim forms to SunAmerica Life Insurance Company ("SunAmerica") on April 28, 2009. After receipt of the death claim forms, SunAmerica paid MR1's beneficiaries a total of sixty-seven thousand two hundred sixty-two dollars (\$67,262).
22. The Anchor VA provided two death benefit options available to MR1:
  - a. Option 1 would pay a death benefit equal to the certificate value, which is equal

to the initial purchase price, plus any growth, less any withdrawals, or the net purchase payments, which reflect a total of the initial purchase price less any withdrawals, fees, or charges, and compounded at a 3% annual growth rate, whichever is greater.

- b. Option 2 would pay a death benefit equal to the certificate value, the net purchase payments, or the maximum anniversary value (as defined in the contract) prior to MR1's eighty-first birthday, whichever is greater.
23. Respondent's agent recommended Option 2 as the death benefit applicable to MR1's Anchor VA.
  24. Because MR1 was eighty-three (83) years old at the time of the purchase, the death benefit would reflect the greater of the certificate value at the time of death or the total net purchase payments, which ultimately totaled sixty-seven thousand two hundred sixty-two dollars (\$67,262). Had Respondent's agent recommended Option 1, MR1 would have received the certificate value or the net purchase payments compounded at an annual three percent (3%) growth rate, totaling sixty-seven thousand two hundred sixty-two dollars (\$67,262) plus an additional amount in excess of approximately nine thousand seven hundred dollars (\$9,700).
  25. On May 28, 2009, MR2 sent a letter to Edward Jones concerning the death benefit paid by SunAmerica. Edward Jones's response states that, "records reflect a total of \$67,262.00 was paid to the beneficiaries as a result of processing the death claim. Based on our review, the beneficiaries have received the funds to which they are entitled."
  26. On or before July 21, 2009, the Missouri Securities Division received a complaint from MR2 and MR3, and the Enforcement Section sent a request for information to Respondent.
  27. In response to the Enforcement Section's request for information, Respondent's agent stated that the Option 2 death benefit was chosen over Option 1 because Respondent's agent felt it was the best option at the time of purchase, and that the annuity purchased by MR1 was not a long-term investment because of the volatile nature of the product.
  28. SunAmerica submitted a statement to the Enforcement Section stating, among other things, that the fixed account in the Anchor VA paid interest at the rate of three percent (3%) per annum during the entirety of MR1's policy.

#### Edward Jones Failure to Supervise

29. Edward Jones failed to reasonably supervise its agent by failing to reasonably review the death benefit options available for the variable annuity sold to MR1.

#### II. ORDER

NOW, THEREFORE, it is hereby Ordered that:

1. Respondent Edward Jones will tender to MRI's beneficiaries restitution in the amount of Ten Thousand Five Hundred Dollars and 00/100 (\$10,500.00) on or before June

21, 2010. The offer will provide that MR1's beneficiaries will have a period of thirty (30) days to either accept or reject the offer.

2. Respondent Edward Jones is ordered to pay to the Missouri Secretary of State's Investor Education and Protection Fund the sum of twenty-five thousand dollars (\$25,000.00). This amount shall be sent within ten (10) days of the effective date of this Consent Order to the Enforcement Section at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund;
3. Respondent Edward Jones shall pay five thousand dollars (\$5,000.00) as the cost of this investigation. This amount shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund. This amount shall be due and payable within thirty (30) days from the date of this Consent Order, and shall be submitted to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101; and
4. Respondent shall pay its own costs and attorneys fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS 9<sup>TH</sup> DAY OF JULY, 2010.

ROBIN CARNAHAN  
SECRETARY OF STATE

(Signed/Sealed)  
MATTHEW D. KITZI  
COMMISSIONER OF SECURITIES

Consented to by:

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Nathan Soendker  
Chief Enforcement Counsel  
Missouri Securities Division

EDWARD JONES

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Form:

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Jeffrey J. Kalinowski  
Attorney for Respondent